

### **III. REMARKS**

In response to the Examiner's objections to the Specification, Applicant has amended the Abstract of the Disclosure and has amended the Specification to update and correct the Cross Reference to Related Applications section.

#### **Rejections Pursuant to 35 U.S.C. § 102(b)**

The Examiner has rejected claims 1, 2 and 5 under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 5,761,667 to Koeppen. Applicant respectfully traverses this rejection for the reasons discussed below.

Applicant respectfully disagrees with the Examiner that Koeppen discloses "retaining each root segment in its storage location during a reorganization of data in said database." In particular, Figs. 4A – 4B of Koeppen specifically illustrate that each root segment in Koeppen is not retained in its storage location during a reorganization. In Figs. 4A – 4B, the root segments are labeled as "A" and "X." As illustrated in Fig. 4B, these root segments change storage locations during the reorganization process illustrated. *See also*, Col. 4, lines 25-39. Accordingly, claims 1, 2 and 5 are allowable over Koeppen, and dependent claims 3, 4 and 6 are allowable for at least the same reasons.

#### **Rejections Pursuant to 35 U.S.C. § 103(a)**

Throughout the Examiner's 35 U.S.C. § 103(a) rejections, the Examiner makes several conclusory assertions about what would have been obvious to one of ordinary skill in the art. For example, regarding claims 3, 4 and 6, the Examiner acknowledges that the Koeppen reference does not specifically show fixed storage locations for root segments, but the Examiner asserts that "it would have been obvious to one of ordinary skill in the art to include such features while implementing the method of Koeppen in order to facilitate quick access to the root segments." The Examiner does not offer any objective evidence, such as cites to prior art, in support of this

conclusory assertion. Accordingly, under the Federal Circuit case law discussed below, this conclusory argument, along with the Examiner's other conclusory Section 103(a) arguments, cannot adequately support a determination of unpatentability.

In a recent decision from the United States Court of Appeals for the Federal Circuit, the Federal Circuit noted that when the patent examiner and Board "rely on what they assert to be general knowledge to negate patentability, that knowledge must be articulated and placed on the record." *In re Sang-Su Lee*, 277 F.3d 1338, 1345 (Fed. Cir. 2002). Specifically, the Federal Circuit noted that conclusory statements about what is "basic knowledge" or "common sense" by themselves do not adequately support a determination of unpatentability. *See id.* at 1343-44.

In addition to the arguments regarding claims 3, 4 and 6, the Examiner makes similar conclusory type arguments with regard to at least the following claims: 22, 23, 37, 43, 47-55 and 56-58. For the reasons discussed above, the Examiner's conclusory arguments and failure to offer any objective evidence in rejecting these claims are inadequate to support a determination of unpatentability. Accordingly, these claims should be allowed.

With regard to claim 7, the Examiner acknowledges that Koeppen does not specifically show storing the root and associated non-root segment in the same location, but argues that U.S. Pub. No. US2002/0143763 to Martin "shows that it is advantageous to store the root segment and associated non-root segments close together." Applicant respectfully disagrees with the Examiner's representation of what Martin teaches. All Martin teaches is that one of the benefits of reorganizing a database is that after reorganization segments can be located closer together resulting in faster access time and shorter latencies. Martin does not teach, on the other hand, a method of maintaining an index during a reorganization of data comprising "retaining each root segment in its storage location during a reorganization of data in said database; and storing each non-root segment associated with a first root segment, in a block of storage locations in which said first root segment is also stored."

More particularly, Martin teaches that one of the advantages of reorganization is that the segments may be moved to be closer together, whereas claim 7 provides a method of maintaining an index during reorganization where a root segment is retained in its storage location and non-root segments are stored in a block of storage locations in which the root segment is also stored. Applicants further submit that the dependent claims 8-12 should be allowed for at least these same reasons.

Claims 13-21 should be allowed at least for the same reasons discussed above, and further for the reason that none of the prior art references cited by the Examiner discuss retaining a prefix component of each root segment in its storage location during a reorganization of data in the database.

Claims 22-66 should be allowed for at least some or all of the same reasons.

Claims 22-58 and 63-66 should also be allowed because U.S. Pat. No. 5,933,820 to Beier does not teach all the limitations of these claims. In particular, Beier does not teach "assigning a unique token to each target segment and each corresponding index entry having an address to a target segment." In Beier, a unique identifier is assigned to each segment. However, such unique identifier is not assigned to "each corresponding index entry having an address to a target segment." Instead, in Beier, "[e]ach such segment has a locator file, *i.e.*, an indirect list entry (ILE), associated with it wherein the key to the locator file is the unique identification of the segment." Col. 6, lines 40-43. Furthermore, in Beier the "secondary index also uses a pointer set to provide the capability to point directly, or to access the locator file to find a current location and to correct the index on reference." Col. 7, lines 36-40. Thus, for at least this additional reason, claims 22-58 and 63-66 should be allowed over Beier.

#### IV. CONCLUSION

In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, Examiner is requested to telephone the undersigned at (512) 370-2858.

Respectfully submitted,

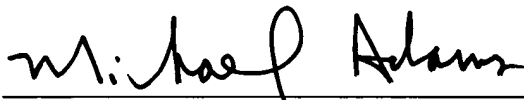


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#### CERTIFICATION UNDER 37 C.F.R. § 1.8

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